

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THOMAS CIACELLI  
By his Guardian CHERYL  
LOHMEYER,

Case No. 24-cv-10414

Plaintiff,

Paul D. Borman  
United States District Judge

v.

WALMART STORES EAST, LP,

Defendant.

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**ORDER STRIKING PLAINTIFF’S MOTION TO AMEND CAPTION (ECF  
NO. 11) AND DIRECTING COMPLIANCE WITH EASTERN DISTRICT  
OF MICHIGAN LOCAL RULES**

On March 28, 2024, Plaintiff Thomas Ciacelli, by his Guardian Cheryl Lohmeyer filed a Motion to Amend Caption. (ECF No. 11.) Plaintiff’s Motion does not meet the requirements of the Eastern District of Michigan Local Rules.

Specifically, Local Rule 5.1(a)(1)(3) requires that the “type size of **all text and footnotes** must be no smaller than 10-1/2 characters per inch (non-proportional) or 14 point (proportional).” E.D. Mich. L.R. 5.1(a)(1)(3) (emphasis added). Plaintiff’s Motion does not conform to this rule.

In addition, Plaintiff’s Motion, which is prefaced by a “Notice of Hearing” before Magistrate Judge Anthony Patti, does not conform with Local Rule 7.1:

Motion Practice, which does not provide for the filing of a “Notice of Hearing.” E.D. Mich. L.R. 7.1.

Local Rule 7.1 further states, in part:

**LR 7.1: Motion Practice**

**(a) Seeking Concurrence in Motions and Requests.**

(1) Before filing a motion relating to discovery, the movant must comply with Federal Rule of Civil Procedure 37(a)(1). Otherwise, the movant must ascertain before filing whether the contemplated motion or request under Federal Rule of Civil Procedure 6(b)(1)(A) will be opposed. To accomplish this, the movant must confer with the other parties and other persons entitled to be heard on the motion in good faith and in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention, given the nature of the contemplated motion. The conference must be held sufficiently in advance of filing the motion to allow a good faith interactive exchange aimed at resolving the matter. If the movant obtains concurrence, the parties or other persons involved may make the subject matter of the contemplated motion or request a matter of record by stipulated order.

(2) If concurrence is not obtained, the motion or request must state:

(A) there was a conference between attorneys or unrepresented parties and other persons entitled to be heard on the motion in which the movant explained the nature of the motion or request and its legal basis and requested but did not obtain concurrence in the relief sought;

(B) despite reasonable and timely efforts specified in the motion or request, the movant was unable to conduct a conference; or

(C) concurrence in the motion has not been sought because of the emergent nature of the relief requested in the motion; or

(D) concurrence in the motion has not been sought because the movant or nonmovant is an incarcerated prisoner proceeding pro se.

Plaintiff does not state in its Motion that concurrence was sought in the relief requested from the opposing party before filing the motion. Plaintiff therefore filed this Motion in violation of the applicable rules.

In addition, Plaintiff's Motion includes a proposed "Order." The filing of a proposed Order is improper because such orders never should be filed by counsel on the electronic docket. E.D. Mich. LR 7.1 cmt. (citing Elec. Filing Pols. & Procs. R. [12](a)). Proposed orders should be submitted to the Court through the CM/ECF Utilities function.

Accordingly, the Court hereby **STRIKES** Plaintiff's Motion to Amend Caption (ECF No. 11) for failure to comply with the Eastern District of Michigan Local Rules.

The Court further **DIRECTS** Plaintiff to District Judge Paul D. Borman's Practice Guidelines on this Court's website.

IT IS SO ORDERED.

Dated: March 29, 2024

s/ Paul D. Borman  
Paul D. Borman  
United States District Judge